



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

MAY 19 2015

OVERNIGHT MAIL & EMAIL  
RETURN RECEIPT REQUESTED

Antonio L. Medina-Comas  
Executive Director  
Puerto Rico Industrial Development Company  
355 Ave F.D. Roosevelt  
Hato Rey, PR 00918  
[antonio.medina@pridco.pr.gov](mailto:antonio.medina@pridco.pr.gov)

Re: Notice of Potential Liability and Request for Information Pursuant to 42 U.S.C. §§ 9607(a) and 9604(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, for the San German Ground Water Contamination Site, San German, PR

Dear Mr. Medina-Comas:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threat of release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the federal "Superfund" law (the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675).

EPA has documented the release and threat of release of hazardous substances into the environment at the San German Ground Water Contamination Superfund Site, San German, Puerto Rico (the "Site"). The Site includes a contaminated ground water plume that has contributed to contamination of the San German Urbano public water supply system serving an estimated population of 2,280 people in San German, Puerto Rico. Quarterly sampling collected by the Puerto Rico Aqueduct and Sewer Authority from 2001-2005 revealed that three of the seven public supply wells, identified as *Retiro*, *Lola Rodriguez de Tio I* and *Lola Rodriguez de Tio II* were contaminated with chlorinated solvents. These solvents included tetrachloroethylene ("PCE"), cis-1,2 dichloroethylene ("cis-1,2-DCE") and trichloroethylene ("TCE"). These three wells were taken out of service in 2006.

On May 19, 2008, the Site was listed on the "National Priorities List," Superfund's list of releases and potential releases of hazardous substances, pollutants, and contaminants that appear to pose the greatest threat to public health, welfare, and the environment, established under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a) of CERCLA. In response to these releases and the threat of future releases, EPA has spent public funds and EPA anticipates spending additional public funds at the Site.

Currently, EPA is performing a Remedial Investigation and Feasibility Study ("RI/FS") at the Site. As part of the remedial investigation, soil samples were collected at five potential source areas in an effort to locate the source of the groundwater contamination. A total of 41 borings were completed and 159 soil samples were collected. Two sources of soil contamination have been identified in Retiro Industrial Park. The soil is contaminated by the same contaminants that are present in the groundwater including, PCE, TCE, and DCE. The sources areas at the Site are owned by the Puerto Rico Industrial Development Company ("PRIDCO").

#### NOTICE OF POTENTIAL LIABILITY

Under CERCLA, responsible parties may be held liable for all monies expended by the federal government in taking response actions in connection with a site where hazardous substances have been released -- including the costs of EPA's investigative, planning, removal, remedial, and enforcement actions. Responsible parties also may be ordered by EPA to take response actions themselves. Responsible parties under CERCLA include, among others, the owners and operators of a facility from which there has been a release or threatened release of a hazardous substance.

By this letter, we notify you that, as the owner of these potential sources at the Site from which we have reason to believe there has been a release or threatened release of a hazardous substance, PRIDCO is a potentially responsible party for the Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

#### REQUEST FOR INFORMATION

In addition, EPA requires that you provide a complete and truthful response to the enclosed Request for Information within **21** calendar days of your receipt of this letter. Under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), EPA has broad information-gathering authority which allows EPA to require persons to provide information or documents relating to the materials generated, treated, stored, or disposed of at or transported from a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal

penalties under federal law. In addition, Section 104 of CERCLA authorizes EPA to pursue penalties for failure to comply with requests for information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included in the attached information request, including the requirement of supporting your claim of confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or who may be responsible for contamination at the Site, that information should be submitted to EPA within the time period stated above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by this Request for Information, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520.

Your response to this Request for Information, which may be submitted electronically, should be mailed to the following:

Henry Guzman  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17<sup>th</sup> Floor  
New York, NY 10007-1866

And to:

Adalberto Bosque, PhD, MBA  
Remedial Project Manager  
U.S. Environmental Protection Agency  
Caribbean Environmental Protection Division  
City View Plaza II, Suite 7000  
#48 Rd 165, km 1.2  
Guaynabo, PR 00968-8069

Please give the matters addressed in this letter your immediate attention, and if you have any questions, please contact Mr. Guzman at (212) 637-3166. We appreciate your attention to this matter.

Sincerely,



Nicoletta Diforte  
Deputy Director  
Emergency and Remedial Response Division

Enclosures

Cc: Julio R. Benítez Torrex, Esq.  
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John L. Greenthal, Esq.  
Nixon Peabody  
677 Broadway, 10<sup>th</sup> Fl.  
Albany, NY 12207

## ATTACHMENT A

### **INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION**

1. Answer Every Question Completely. A complete and separate response should be given by the Puerto Rico Industrial Development Company ("PRIDCO") for each question contained in **Attachment B** of this letter. If information or documents responsive to a question are not in PRIDCO's possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide the Best Information Available. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees and/or agents. Submission of cursory responses when other responsive information is available to PRIDCO may be considered non-compliance with this Request for Information. Whenever in this request for Information there is a request to identify a natural person or an entity other than a natural person, state among other things the person or entity's full name and present or last known address. Consult with all present and past employees and agents of PRIDCO whom you have reason to believe may be familiar with the matter to which the question pertains.
4. Identify Sources of Answers. In answering each question, identify (see Definitions) each individual and any other source of information (including documents) that was relied on in producing PRIDCO's answer.
5. Inability to Answer or Provide Documents. If PRIDCO is unable to answer a question in a detailed and complete manner or if it is unable to provide any of the information or documents requested, indicate the reason for its inability to do so. If PRIDCO cannot provide a precise answer to a question, please approximate, but in any such instance, state the reason for your inability to be specific. If PRIDCO has reason to believe that an individual or entity other than one employed by or known to your Company may be able to provide additional details or documentation in response to any question, state that person or entity's name, last known address, phone number, and the reasons for your belief.
6. Documents. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, and number of pages and identify all recipients of the document with their addresses. If anything is omitted from a document produced in your response to this Request for Information, state the reason for, and the subject matter of, the omission.
7. Continuing Obligation to Provide and to Correct Information. If additional information or documents responsive to this Request become known or available to PRIDCO after it responds to



this Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to EPA.

8. Confidential Information. The information requested herein must be provided even though PRIDCO may contend that it includes confidential information or trade secrets. PRIDCO may assert a confidentiality claim that covers part or all of the information requested, pursuant to Sections 104(e) (7) (E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e) (7) (E) and (F), and 40 C.F.R. §2.203(b). If PRIDCO makes a claim of confidentiality for any of the information it submits to EPA, it must prove that claim. For each document or response it claims is confidential, you must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by PRIDCO to guard against an unintended disclosure of the information to others;
- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determination if available or a reference to them; and
- f. if you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, describe what those harmful effects would be, why they should be viewed as substantial, and provide an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "Confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit in separate envelopes both a clean and a redacted version of any documents or response for which you make a claim of confidentiality.

All confidentiality claims are subject to EPA verification. It is important that PRIDCO satisfactorily show that it has taken reasonable measures to protect the confidentiality of the information, that it intends to continue to do so, and that it is not and has not been obtainable by legitimate means without PRIDCO's consent.

Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e) and 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to PRIDCO.

9. Disclosure to EPA Contractor. Information which PRIDCO submits in response to this Request for Information may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. Part 2.310(h), such as for the purpose of organizing and/or analyzing the information contained in the responses to this Request for Information, even if you assert that all or part of your submission is confidential business information. Any knowing or willful disclosure of such information by such a contractor may subject that contractor to penalties under Section 104(e)(7)(B), 42 U.S.C. § 9604(e)(7)(B). If PRIDCO is submitting information which it asserts is entitled to treatment as confidential business information, you may comment on this potential disclosure within fourteen (14) days of receiving this Request for Information.

10. Personal Privacy Information. Personnel and medical files, and similar files that if disclosure to the general public may constitute an invasion of privacy, should be segregated among PRIDCO's responses, included on separate sheet(s), and marked as "Personal Privacy Information."

11. Objections to Questions. If PRIDCO has objections to some or all the questions within this Request for Information, it is still required to respond to each question.

12. If additional information or documents responsive to this Request for Information become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.

## **B. Definitions**

1. As used herein, the term "Site" shall refer to the San German Groundwater Contamination Site ("Site"). The Site includes a contaminated plume of groundwater originating at the Retiro Industrial Park and its surrounding areas and the sources thereof.

2. As used herein, the term "you," "your," and PRIDCO" shall refer to the Puerto Rico Industrial Development Company.

3. The term "Facility" shall refer to the El Retiro Industrial Park in San German, Puerto Rico.

4. The term "hazardous substance" shall have the meaning set forth in Section 101(14) of CERCLA, at 42 U.S.C. § 9601(14). The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA) are set forth at 40 CFR Part 302.

5. As used herein, the term "industrial waste" shall mean any solid, liquid, or sludge or any mixture thereof which possesses any of the following characteristics:

- a. it contains one or more "hazardous substances" (at concentration) as defined in 42 U.S.C. § 9601(14);
  - b. it is a "hazardous waste" as defined in 42 U.S.C. § 6903(5); it has a pH less than 2.0 or greater than 12.5; it reacts violently when mixed with water;
  - c. it generates toxic gases when mixed with water; it easily ignites or explodes;
  - d. it is an industrial waste product;
  - e. it is an industrial treatment plant sludge or supernatant;
  - f. it is an industrial byproduct having some market value;
  - g. it is coolant water or blowdown waste from a coolant system; or
  - h. it is a spent product which could be reused after rehabilitation; or it is any material which you have reason to believe would be toxic if either ingested, inhaled or placed in contact with your skin.
6. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known employer and business address and business telephone number, and present or last known home address and home telephone number. With respect to a corporation, partnership, business trust, or other association or business entity (including a sole proprietorship), the term "identify" means to provide its full name, address, and any affiliation it has with PRIDCO.
7. The term "document" or "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including but not limited to the following: papers, books, records, letters, photographs, correspondence, communications, telegrams, cables, Telex messages, memoranda, laboratory work papers, batch sheets, other work papers, ledger sheets, transcripts, minutes, reports and recordings of telephone or other conversations, or of interviews or of conferences, or of other meetings, affidavits, statements, summaries, opinions, reports, studies, drafts, analyses, bulletins, notices, announcements, advertisements, instructions, charts, manuals, brochures, publications, schedules, journals, statistical records, diaries, lists, logs, well logs, field logs, tabulations, sound recordings, computer printouts, computer-readable materials, chromatograms, spectrographs, mass spectra or spectrograms, data generated from any physico-chemical methods of analysis, data processing input and invoices, checks, notes, diagrams, maps, graphs, or materials with handwriting or other printing on them and other tangible material. "Document" shall also include any data compilation from which information can be obtained or translated if necessary by you through detection devices into reasonably usable form.
8. The term "entity" or "entities" refers to persons, individuals, companies, partnerships, or any other type of business association.



9. The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, in which case the statutory definitions shall apply.

**ATTACHMENT B**  
**REQUEST FOR INFORMATION**

1. Please state the date or dates that PRIDCO acquired the land that now makes up the Facility. Please provide all relevant deeds documenting such acquisition.
2. When were the structures at the Facility initially constructed?
3. Please provide all maps, plans, and/or drawings of buildings located in the Facility, beginning from construction of such buildings, to the present.
4. Please identify all entities that have ever leased property within the Facility.
  - a. For each, state the date of the initial leases and the dates of any subsequent leases, modifications, and/or extensions.
  - b. Identify the premises that were leased.
  - c. If any terms and conditions in the leases were changed, state the changes.
  - d. Provide signed copies of all leases and any attachments.
5. For each tenant identified, please describe in detail the manufacturing processes and any other operations conducted by each tenant at the Facility. If those operations were modified or changed throughout such operations, describe the nature of all changes in operations and state the year of each change.
  - a. As part of your answer to this question, also identify the types of materials (including hazardous substances) used, the products manufactured, processed, or otherwise handled, and what hazardous wastes or industrial wastes were generated during and after the operating process.
  - b. Please describe how and where all hazardous and industrial wastes have been disposed of throughout the respective periods of operations.
  - c. State whether representatives of PRIDCO performed any inspections of the various structures located at the Facility, the dates of any such inspections, and any observations made at such inspections. Provide copies of all inspection reports, memoranda, letters, and other documents related to the Facility, distinguishing between the various structures at the Facility, if possible, and specify the nature of the operations conducted there.
6. Identify all leaks, spills, discharges, or releases into the environment of any hazardous substances, hazardous wastes, industrial wastes, pollutants, or contaminants at or from the Facility. In addition, please provide the following information:
  - a. When such releases occurred;
  - b. How the releases occurred;
  - c. Identify each hazardous substance, waste, industrial waste, pollutant, or contaminant released and the amount of each material that was released;
  - d. Where such releases occurred;

- e. Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
  - f. Any and all investigations of the nature, extent or location of each release or threatened release, including the results of any soil, water (ground and surface), or air testing undertaken; and
  - g. All persons with information relating to these releases.
7. Did PRIDCO enter into arrangements of any kind relating to the treatment, storage, or disposal of industrial wastes regarding any of the structures at the Facility? If so, explain the arrangements, with whom they were made, the dates and durations of the arrangements, and the nature of and the approximate volume of the industrial wastes. Provide copies of all documents that inform or are relevant to your response to this question.
8. At any time during its ownership of the Property did PRIDCO or any of its tenants perform any environmental audits and/or studies to determine whether there was contamination at or emanating from the Property? If so, state who performed any such audits and/or studies, and the dates they were performed. Provide copies of all documents that inform or are relevant to your response to this question.
9. Did PRIDCO or any of the tenants at the Facility ever address any environmental conditions at the Property? If so, describe the environmental conditions and the action taken.
10. Identify and provide copies of all insurance policies and indemnification agreements held or entered into which arguably could indemnify PRIDCO against any liability which it may be found to have under CERCLA for releases and threatened releases of hazardous substances at and from the Site. In response to this request, please provide not only those insurance policies and agreements which currently are in effect, but also include those which were in effect during the years PRIDCO owned and/or operated at the Site.
11. Please identify the names and current addresses of the representatives of PRIDCO who may have information about the Property and the operations conducted there.
12. In the event that you have any additional information or documents which may help EPA identify other companies what may have contributed to contamination in the ground water plume at the San German Ground Water Contamination Site, please provide that information and those documents, and identify the source of your information.
13. Please state the name, title and address of each individual who assisted or was consulted in the preparation of your response to this CERCLA Request for Information. In addition, state whether this person has personal knowledge of the information in the answers provided.

SAN GERMAN GROUND WATER CONTAMINATION SITE  
CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

COMMONWELTH of \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
SIGNATURE

Sworn to before me this

\_\_ day of \_\_\_\_, 2015

\_\_\_\_\_  
Notary Public